

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

EDWARD BARFIELD,
Plaintiff,

vs.

JOHN DOE, et al.,
Defendants.

Civil Action No. 1:16-cv-1149
Black, J.
Litkovitz, M.J.

**REPORT AND
RECOMMENDATION**

Plaintiff, an inmate at the Lebanon Correctional Institution, brings this action alleging violations of his civil rights against Jane Doe and John Doe defendants, Officer Parish, and Sgt. Bare. Defendants Bare and Parish filed a motion for summary judgment on January 3, 2018. (Doc. 26). Plaintiff was granted two extensions of time until April 23, 2018 to respond to the motion. (Docs. 30, 32). Plaintiff did not respond to the motion by the extended deadline. On June 21, 2018, the Court ordered plaintiff to show cause, in writing, why the Court should not dismiss this case for lack of prosecution. (Doc. 34). Plaintiff filed a response to the show cause order on June 29, 2018. (Doc. 35). The Court thereafter granted plaintiff one final extension of time until July 17, 2018 to file a response to defendants' motion for summary judgment motion. (Doc. 36). Plaintiff was informed that no further extensions of time would be granted and that if he failed to file a response by the extended deadline, a recommendation would be made to the District Judge that this case be dismissed without prejudice for failure to prosecute. (*Id.*). To date, plaintiff has not filed a response to defendants' motion for summary judgment.

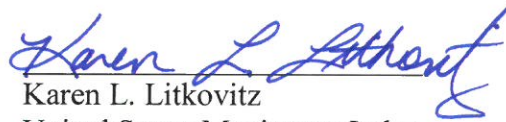
Plaintiff's failure to respond to defendants' motion for summary judgment warrants dismissal of this case pursuant to Fed. R. Civ. P. 41(b) for failure to prosecute this matter. *See Link v. Wabash R.R.*, 370 U.S. 626, 630-631 (1962). *See also Jourdan v. Jabe*, 951 F.2d 108, 109-10 (6th Cir. 1991). District courts have this power to dismiss civil actions for want of

prosecution to “manage their own affairs so as to achieve the orderly and expeditious disposition of cases.” *Link*, 370 U.S. at 630-631; *Jourdan*, 951 F.2d at 109.

IT IS THEREFORE RECOMMENDED THAT:

1. This case be **DISMISSED** without prejudice for want of prosecution pursuant to Fed. R. Civ. P. 41(b).
2. The Court certify pursuant to 28 U.S.C. § 1915(a)(3) that for the foregoing reasons an appeal of this Court’s Order would not be taken in good faith. *See McGore v. Wrigglesworth*, 114 F.3d 601 (6th Cir. 1997).

Date: 7/31/18


Karen L. Litkovitz
United States Magistrate Judge

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NOTICE

Pursuant to Fed. R. Civ. P. 72(b), **WITHIN 14 DAYS** after being served with a copy of the recommended disposition, a party may serve and file specific written objections to the proposed findings and recommendations. This period may be extended further by the Court on timely motion for an extension. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendation is based in whole or in part upon matters occurring on the record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon, or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections **WITHIN 14 DAYS** after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).